

Remarks

Favorable reconsideration of this application is requested in view of the following remarks. For the reasons set forth below, Applicant respectfully submits that the claimed invention is allowable over the cited references.

The Office Action dated August 23, 2005, indicated that the prior objections to the drawings are overcome; claims 1 and 18 stand rejected under 35 U.S.C. § 112(1); claims 1-8, 10-16 and 18 stand rejected under 35 U.S.C. § 102(e) over Atick *et al.* (U.S. Patent No. 6,111,517); claims 9 and 17 stand rejected under 35 U.S.C. § 103(a) over Atick *et al.* in view of Yee *et al.* (U.S. Patent No. 6,380,924); and claim 1 stands rejected under the judicially created doctrine of obviousness-type double patenting over claim 1 of copending Application No. 10/041,756.

With respect to the Section 112, paragraph one rejections of claims 1 and 18 Applicant respectfully traverses the rejections. The Office Action appears to erroneously rely upon a limitation that a person be identified as unauthorized and/or as a person having a particular type or class of authorization that is lacking. Applicant submits that the claimed invention (as in claim 1 and claim 18) do not contain the term “identify” and do not contain any limitations as to the determination as to who might be authorized and who might not be authorized; thus, the asserted lack of support for identifying a person as unauthorized is improper. Moreover, the Office Action appears to rely upon the mistaken assumption that there must be an authorized person who is not at the computer and that authorized person must be able to view the data on the computer. Applicant finds no support for the Office Actions assumption that a “superior to the authorized user” must be able to view the data on the authorized user’s computer. Applicant maintains that the subject limitations of claims 1 and 18 are supported in the specification. (*See, e.g.*, Specification at page 7, line 15). Accordingly, Applicant requests that the rejections be withdrawn.

With respect to prior art rejections (35 U.S.C. § 102(e)) of claims 1-8 and 18, Applicant respectfully traverses the rejections. Applicant submits that independent claims 1 and 18 are distinguishable from the ‘517 patent. For example, the Office Action

asserts that the '517 patent teaches detecting motion, however, the cited portion of the '517 reference (column 8, lines 8-22) does not support this assertion. Instead, the cited portion of the '517 reference teaches "continuously searching for individuals who have entered the field of view" and "continuously searching for the presence of a second, unauthorized individual." Applicant submits that while the '517 reference teaches detecting an individual and that the individual may move into the field of view, it does not teach detecting motion of the individual. Thus, as claims 1 and 18 include a limitation directed to detect the presence of an unauthorized person "by sensing one of heat, motion and sound," Applicant submits that the '517 patent has no corresponding teaching and that claims 1 and 18 are patentably distinct from the '517 reference. Claims 2-8 depend from claim 1 and therefore contain all the limitations of claim 1. Accordingly, Applicant requests that the rejections to claims 1-9 and 18 be withdrawn.

With respect to prior art rejections (35 U.S.C. § 102(e)) of claims 10-17, Applicant respectfully traverses the rejections. The claimed invention is limited to "means for automatically detecting a person" and pursuant to § 112(6), Applicant submits that such "means" (*i.e.*, the disclosed structure (and its equivalents) set forth in the Specification as being exemplary structure for the associated function of searching) has nothing to do with the '517 patent teaching concerning recognition of faces in a video camera. Moreover, the citation of the '517 patent has to do with recognition of a face from a prestored set of faces for comparison, or use of the video camera searching for the "presence of a second, unauthorized individual" which would be a person not in the prestored set of faces. Applicant submits that the detection means is supported by the Specification at page 7, line 15, which contemplates the use of "heat, motion, light variations and sound" and at page 9, lines 1-6, which discusses the use of "a heat/infrared sensor, a motion detector, a sound detector and a light detector configured to detect variations in light." Moreover, page 9, lines 4-6 show that the "light detector" is distinguishable from "an imaging device, such as a camera" and further that the camera is used to "detect movement." As the prior art video camera operation does not detect movement and is distinguishable from a light detector, the '517 patent is not in any way equivalent, and is not enabling for the invention set forth in claims 10-17. Therefore,

Applicant submits that the claimed invention is patentably distinct from the cited prior art and requests that the rejections to claims 10-17 be withdrawn.

With respect to the § 103(a) rejection, Applicant respectfully traverses. The combined teachings do not correspond to the invention of either claim 9 or 17. Claim 9 is dependent from claim 1 and as discussed above, the claimed invention is limited to detecting the presence of an unauthorized person “by sensing one of heat, motion and sound”. Applicant submits that the cited references fail to teach any such limitation. Moreover, claim 9 is directed to the step of enabling a key-stroke tracking application for tracking keystrokes after automatically detecting a person. The Office Action asserts that the ‘924 patent teaches enabling a key-stroke tracking application yet fails to show how either reference teaches enabling a key-stroke tracking application after automatically detecting a person as required by the claim limitation.

With respect to claim 17, it is further distinguishable because it is limited to § 112(6) and because it depends from claim 12 (and also claims 10 and 11) which is also distinguishable based on § 112(6) and the corresponding structures set forth in the specification. As discussed above, the claimed invention is limited to “means for automatically detecting a person” and pursuant to § 112(6), Applicant submits that such “means” has nothing to do with searching for recognizable faces in a video camera as in the ‘517 patent.

Accordingly, Applicant requests that the rejections to claims 9 and 17 be withdrawn.

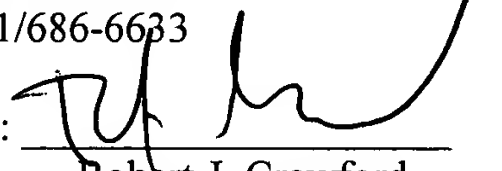
With respect to the double patenting rejection, Applicant would consider submitting a terminal disclaimer should the copending application issue. Until then, Applicant submits that all the rejections have been overcome, and therefore, requests that this provisional rejection be withdrawn as required by MPEP § 804.

In view of the above discussion, Applicant believes that the rejection has been overcome and the application is in condition for allowance. A favorable response is requested. Should there be any remaining issues that could be readily addressed over the telephone, the Examiner is encouraged to contact the undersigned at (651) 686-6633.

Respectfully submitted,

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